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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/689,615 | 10/13/2000 | Richard A. Esser | 04350.0012-00000 | 8050 |

7590 11/29/2001

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EXAMINER

CASTELLANO, STEPHEN J

ART UNIT

PAPER NUMBER

3727

DATE MAILED: 11/29/2001

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

| | | | |
|-----------------|------------|----------------|-------|
| Application No. | 09/689,615 | Applicant(s) | Esser |
| Examiner | Castellano | Group Art Unit | 3727 |

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Response

A SHORTENED STATUTORY PERIOD FOR RESPONSE IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a response be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for response specified above is less than thirty (30) days, a response within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for response is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to respond within the set or extended period for response will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

Responsive to communication(s) filed on 9/18/01

This action is FINAL.

Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

Claim(s) 1-9, 20, 21 is/are pending in the application.

Of the above claim(s) _____ is/are withdrawn from consideration.

Claim(s) _____ is/are allowed.

Claim(s) 1-9, 20, 21 is/are rejected.

Claim(s) _____ is/are objected to.

Claim(s) _____ are subject to restriction or election requirement.

Application Papers

See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

The proposed drawing correction, filed on _____ is approved disapproved.

The drawing(s) filed on _____ is/are objected to by the Examiner.

The specification is objected to by the Examiner.

The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

All Some* None of the CERTIFIED copies of the priority documents have been received.

received in Application No. (Series Code/Serial Number) _____.

received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

Attachment(s)

Information Disclosure Statement(s), PTO-1449, Paper No(s). _____ Interview Summary, PTO-413

Notice of References Cited, PTO-892 Notice of Informal Patent Application, PTO-152

Notice of Draftsperson's Patent Drawing Review, PTO-948 Other _____

Office Action Summary

1. Applicant mentions in the Remarks on page 5, the third paragraph that claim 6 was amended. No amendment to claim 6 could be found in either version of the amendments.

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 6 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-9, 20 and 21 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Esser et al. (Esser).

6. Claims 1, 9 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Brown.

Brown discloses a rapid deployment device adapted to receive and retain hazardous waste such as dirty socks and other laundry in an open configuration which forms a receptacle, the device comprises rods (15) pivotally connected by a scissors connection at the midpoint between the ends, hubs are formed at each end of the device by [frames (11) and tubes (21a)], each hub receives the end portion of two rods along separate axes of each hub, the rods are pivotally joined to the hubs along a single axis of rotation, a canopy (19) is connected to the hubs and resides in the receptacle formed by the device.

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Brown in view of Lobbert.

Brown discloses the invention except for the liner positioned in the receptacle adjacent the canopy. Lobbert teaches a device for collecting waste wherein a container (7) on the interior of a device is lined by a removable liner (18). It would have been obvious to add a liner adjacent to the interior of the canopy in order to more easily remove waste from a device which has a part for receiving waste products which is more permanently connected than a removable liner laid upon the device. The removability is motivated by the convenience in rapidly removing the liner rather than needing to disconnect the canopy from the hubs and by constructing a liner of an easily cleanable plastic material which will reduce the accumulation of germs and disease associated with the hazardous material contents because the liner is the part which becomes contaminated not the canopy and the liner is cleaned between each reuse.

9. Applicant's arguments filed September 18, 2001 have been fully considered but they are not persuasive. Bars 15 may be perpendicular to rods 16 but the rejection relies on bars 15, only (by themselves), as a teaching of the invention's rods. All of bars 15 are parallel to one another in the collapsed configuration. Applicant's position on hazardous waste is not well understood. Statements that soiled laundry such as dirty socks doesn't qualify as hazardous waste seem conclusionary and aren't supported by fact or reason.

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

11. In order to reduce pendency and avoid potential delays, Group 3720 is encouraging FAXing of responses to Office Actions directly into the Group at (703)305-3579. This practice may be used for filing papers not requiring a fee. It may also be used for filing papers which require a fee by applicants who authorize charges to a PTO deposit account. Please identify the examiner and art unit at the top of your cover sheet. Papers submitted via FAX into group 3720 will be promptly forwarded to the examiner.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen J. Castellano whose telephone number is (703)-308-1035.

Stephen Castellano
Stephen Castellano
Primary Examiner
Art Unit 3727

November 13, 2001